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No. 86-1511

IN THE
Supreme Court of the United States
OCTOBER TERM, 1986

CLETUS BROWN,
Petitioner,

v.

MISSOURI PACIFIC RAILROAD COMPANY,
Respondent.

On Petition for Writ of Certiorari to the Supreme Court of Missouri

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BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Missouri Supreme Court's ruling that the petitioner has failed to plead and prove a cognizable state tort claim under Missouri law is an independent and adequate state ground for the judgment below.

2. Whether the Missouri Supreme Court's application of settled preemption principles under the Railway Labor Act to the facts of this case merits review by this Court.

LIST OF PARTIES

The caption of the case contains the names of all parties.*

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* An updated version of the statement required by Supreme Court Rule 28.1 is included in the attached Appendix.

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BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

The Missouri Pacific Railroad Company submits this brief in opposition to the petition for writ of certiorari.

STATEMENT OF THE CASE

The petitioner's Statement of the Case suffers from one fundamental shortcoming: it fails to acknowledge that the Missouri Supreme Court's decision rests not only on a federal law holding, but also on an independent holding of state law. In addition to finding that the petitioner's state tort claim against the respondent was preempted by the Railway Labor Act (RLA), the Missouri Supreme Court held that the petitioner was not entitled to relief as a matter of state law because he "failed to plead and prove a cognizable [tort] claim * * * under

Missouri law." 720 S.W.2d at 357 (Pet. App. A16). As shown below, this ruling constitutes an independent and adequate state ground for the Missouri Supreme Court's judgment and thereby divests this Court of jurisdiction over this case. To place this state law ruling in context, it is useful to review briefly the petitioner's claim against the respondent and the respondent's defenses.

This case involves the second of two suits by the petitioner against the respondent. In the first suit, the petitioner filed a conventional claim for work-related physical injuries under the Federal Employers' Liability Act (FELA) and ultimately recovered a substantial jury verdict. Several months after the conclusion of the FELA action, the petitioner filed a second suit against the respondent. The gravamen of the petitioner's second claim was that one of the respondent's claims agents had threatened him with discharge if he sought recovery under the FELA and that the respondent had temporarily withheld him from service following the return of the FELA jury verdict as punishment for the FELA suit. It was undisputed that the respondent did not in fact discharge the petitioner; that it informed the petitioner that he was being withheld from service pending review of testimony regarding his medical condition at the FELA trial; and that the respondent ultimately returned him to service with full back pay following a medical examination. Nonetheless, the petitioner claimed to have been injured by the alleged threats of discharge and by his temporary withholding from work.

The petitioner did not seek relief for this asserted mistreatment under the FELA.[1] Neither did he attempt to

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[1] See 720 S.W.2d at 360 (Pet. App. A22) (petitioner "made no attempt to state a FELA claim for the conduct alleged in his present petition * * *"). Indeed, the petitioner's counsel advised the trial judge during the trial that he had chosen not to seek relief under the FELA because the FELA does not provide for punitive

state a claim under a conventional theory of common-law tort liability, such as intentional infliction of emotional distress. Instead, he framed his claim exclusively in terms of a novel theory of tort liability, recognized only in Missouri and a handful of other States, known as the "prima facie tort" doctrine. Briefly stated, the prima facie tort doctrine recognizes a residual category of tort liability for certain intentional but otherwise lawful harms which do not fall within the scope of traditional intentional torts. See, *e.g.*, *Dake* v. *Tuell*, 687 S.W.2d 191 (Mo. 1985) (*en banc*); *Dowd* v. *General Motors Acceptance Corp.*, 685 S.W.2d 868 (Mo. Ct. App. 1984); *Bandag of Springfield, Inc.* v. *Bandag, Inc.*, 662 S.W.2d 546 (Mo. Ct. App. 1983); *Lundberg* v. *Prudential Ins. Co.*, 661 S.W.2d 667 (Mo. Ct. App. 1983). The prima facie tort doctrine was not recognized in Missouri until 1980, and because its terms of liability are vague and potentially open-ended,[2] a repeated theme of Missouri decisions since then has been the need to impose careful limits on the scope of prima facie tort claims. See, *e.g.*, *Dake*, 687 S.W.2d at 192 (characterizing prima facie tort doctrine as "misty shroud"); *Lundberg*, 661 S.W.2d at 670 (warn-

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damages. Tr. 586-87; see, *e.g.*, *Kopczynski* v. *The Jacqueline*, 742 F.2d 555, 560 (9th Cir. 1984), *cert. denied*, 471 U.S. 1136 (1985); *Kozar* v. *Chesapeake & Ohio Ry. Co.*, 449 F.2d 1238, 1240-43 (6th Cir. 1971). While the petitioner has referred to several provisions of the FELA in his petition for certiorari, it should be borne in mind that he did not claim to be entitled to relief under any of those provisions below, nor does he do so here.

[2] As set forth in *Porter* v. *Crawford & Co.*, 611 S.W.2d 265 (Mo. Ct. App. 1980), the first decision to recognize the prima facie tort doctrine in Missouri, recovery involves proof of four elements: (1) an "[i]ntentional lawful act by the defendant"; (2) "[a]n intent to cause injury to the plaintiff"; (3) "[i]njury to the plaintiff"; and (4) "[a]n absence of any justification or an insufficient justification for the defendant's act." 611 S.W.2d at 268.

ing against allowing prima facie tort doctrine to "degenerate into a disastrous legal detour with no defined beginning, course or end"); *Dowd*, 685 S.W.2d at 872.

The respondent defended against the petitioner's prima facie tort claim on both state and federal grounds. One of the respondent's principal state-law contentions, although by no means the only one, was that the conduct alleged by the petitioner should not be held to amount to a prima facie tort as a matter of Missouri law. Specifically, the respondent argued that disputes arising out of the employer-employee relationship should be dealt with only under established categories of contract and tort law and should not be exposed to the vagaries of the prima facie tort doctrine. In addition to this and other state-law grounds, the respondent defended on the federal ground that the petitioner's tort claim involved a "minor dispute" within the ambit of the Railway Labor Act and thus was preempted by the mandatory arbitral machinery created by the RLA for resolving such disputes. See pp. 9-10 *infra*.

Following a jury verdict in the petitioner's favor, the trial court denied JNOV and new-trial motions by the respondent. Pet. App. A1-A5. On appeal, the respondent sought reversal both on RLA preemption grounds and on state-law grounds, including the ground that its alleged conduct was not actionable under the prima facie tort doctrine. The Missouri Court of Appeals agreed with the respondent that "the great weight of authority" supported the respondent's RLA preemption arguments, but it transferred the case without decision to the Missouri Supreme Court for that Court to resolve all the issues presented by the appeal. Pet. App. A6-A15.

In an *en banc* opinion by Judge Blackmar, the Missouri Supreme Court unanimously reversed the judgment in favor of the petitioner. *Brown* v. *Missouri Pacific R. Co.*,

720 S.W.2d 357 (Mo. 1986) (*en banc*) (Pet. App. A16-A26). As noted in the petitioner's Statement of the Case, the Missouri Supreme Court agreed with the respondent that the petitioner's prima facie tort claim was preempted by the RLA. See 720 S.W.2d at 358-61 (Pet. App. A18-A24). The Court held that the prima facie tort claim was not preserved from preemption under this Court's analysis in *Farmer* v. *United Brotherhood of Carpenters & Joiners*, 430 U.S. 290 (1977) (addressing preemption of state torts under the National Labor Relations Act), because this case did not involve the kind of extreme and abusive conduct at issue in *Farmer* and subsequent decisions relying on *Farmer*. 720 S.W.2d at 359-60 (Pet. App. A20-A22). Although the petitioner presented several other federal and state decisions that were alleged to foreclose RLA preemption in this case, the Court found that all of the precedents offered by the petitioner were "clearly distinguishable" on a factual basis. *Id.* at 360 (Pet. App. A23). The Court declined to take issue with the results reached in those cases, leaving open the possibility that a railroad employee's tort claim involving more extreme facts might be held to fall outside the scope of RLA preemption. *Id.*

The Missouri Supreme Court did not rest its decision, however, on federal grounds alone. Instead, "in the interest of finality," it went on to reach the respondent's separate contention that the petitioner was not entitled to relief under the prima facie tort doctrine as a matter of Missouri law:

> "Having concluded that the plaintiff's claim is preempted by federal law, we might well terminate our consideration of the case. But the present appeal comes to us after the plaintiff has had full opportunity to plead any claim he chooses, and after a full trial. We deem it appropriate in the interest of finality to consider the defendant's claim that the plaintiff has failed to establish a claim of 'prima

facie tort under Missouri law." 720 S.W.2d at 361 (Pet. App. A25).

The Missouri Supreme Court proceeded to hold expressly that the petitioner was not entitled to relief under the prima facie tort doctrine. The Court relied on its prior decision in *Dake* v. *Tuell*, 687 S.W.2d 191 (Mo. 1985) (*en banc*), in which the Court had held that an employee whose discharge is not claimed to violate any contractual or statutory rights cannot challenge his discharge under the prima facie tort doctrine. 720 S.W.2d at 362 (Pet. App. A26). The Court reasoned that "[i]nasmuch as the plaintiff would have no right of action for an actual discharge [under *Dake*], under his chosen [prima facie tort] theory, he should have no action for threatened discharge, or for a suspension with or without pay." *Id.* The Court further reasoned that as a prudential matter, the kinds of frictions that arise daily between employees and employers are poorly suited for review under the open-ended terms of the prima facie tort doctrine—"peculiarly unsuitable for scrutiny in a lawsuit," in short, "except where there are recognized violations of rights and cognizable injuries." *Id.* The Court found that it was unnecessary "to enter into a discussion about the situations in which an action of prima facie tort might be available": "Suffice it to say that the case before us is not one of these." *Id.* The Court thus concluded unanimously that the petitioner "has failed to plead and prove a cognizable claim in prima facie tort under Missouri law." *Id.* at 357 (Pet. App. A16).

ARGUMENT

I. The Missouri Supreme Court's Decision Rests On An Independent And Adequate State Ground

It has long been a central part of this Court's jurisprudence that "where the judgment of a state court rests upon two grounds, one of which is federal and the other non-federal in character, our jurisdiction fails if the non-federal ground is independent of the federal ground and adequate to support the judgment." *Fox Film Corp.* v. *Muller*, 296 U.S. 207, 210 (1935); accord, *Michigan* v. *Long*, 463 U.S. 1032 (1983); *Herb* v. *Pitcairn*, 324 U.S. 117 (1945); *Murdock* v. *City of Memphis*, 87 U.S. (20 Wall.) 590 (1875); *Uhler* v. *AFL-CIO*, 468 U.S. 1310 (1984) (Rehnquist, J., in Chambers). If the state court's judgment rests on an independent and adequate state ground, it is immaterial that the state court also reached a separate federal question. This Court lacks the power to review a state court's independent state law ruling, and the Court will not review an accompanying federal ruling when doing so would amount to nothing more than an advisory opinion. See, *e.g.*, *Herb* v. *Pitcairn*, 324 U.S. at 125-26.

No elaboration is required to show that the Missouri Supreme Court's judgment in this case stands on an independent and adequate state ground. As shown in the Statement of the Case, the Missouri Supreme Court expressly held that the petitioner "has failed to plead and prove a cognizable claim in prima facie tort under Missouri law" and that "the case before us is not one" of "the situations in which an action of prima facie tort might be available." 720 S.W.2d at 357, 362 (Pet. App. A16, A25-A26); see pp. 5-6 *supra*. This state-law holding is wholly independent of the Missouri Supreme Court's federal preemption ruling. The Court based its prima facie tort holding on its prior decision in *Dake* v. *Tuell*, *supra*, another case involving state-law questions about

the scope of the prima facie tort doctrine, and on concerns about the suitability of the prima facie tort doctrine for employer-employee disputes. By its terms, this state-law holding is adequate to support the judgment. The Court held that Missouri's prima facie tort doctrine affords the petitioner no relief; because the petitioner did not seek recovery under any other theory, the Court's ruling compels a judgment in the respondent's favor even if it were held that federal law did not preempt the petitioner's state law claim.

Because the Missouri Supreme Court's judgment rests on an independent and adequate state ground, this Court lacks jurisdiction over this case. The petition for certiorari therefore must be denied.

II. The Missouri Supreme Court's Alternative Railway Labor Act Ruling Does Not Merit Review

Since the decision below rests on an independent and adequate state ground, this Court need not decide whether the Missouri Supreme Court's alternative RLA preemption ruling, standing alone, would merit review. Even if there were no jurisdictional bar in this case, however, there would be no reason for this Court to review the Missouri Supreme Court's preemption ruling. The legal standards governing RLA preemption of state tort claims are well settled, and the Missouri Supreme Court has done no more than apply those standards to the facts of this case. In so doing, the Missouri Supreme Court reached the same conclusion that other state and federal courts repeatedly have reached when confronted with similar railroad employee-employer disputes. The RLA ruling below is not in conflict with any of the decisions cited by the petitioner, nor does it leave railroad employees without remedies against employers who retaliate for the filing of FELA claims.

A. The Railway Labor Act Ruling Correctly Applies Settled Preemption Principles To The Particular Facts Of This Case

The Missouri Supreme Court's RLA preemption ruling follows directly from a longstanding and well-settled body of RLA precedent from this Court and other federal and state courts. By its terms, § 3 of the RLA places disputes between railroads and their employees "arising out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions"—commonly labeled "minor disputes"—under the jurisdiction of arbitration panels known as adjustment boards. 45 U.S.C. § 153 First (i), 153 Second. The jurisdiction of adjustment boards over minor disputes is mandatory and exclusive; an employee cannot disregard the RLA's minor-dispute resolution procedures by presenting a minor dispute to a court for relief. See, *e.g.*, *Union Pacific R. Co.* v. *Sheehan*, 439 U.S. 89, 94 (1978); *Brotherhood of Locomotive Engineers* v. *Louisville & Nashville R. Co.*, 373 U.S. 33, 38-39 (1963). The decisions of this Court and other courts have long made it clear that an employee cannot evade adjustment-board jurisdiction by recasting what otherwise would be a minor dispute in the guise of a state tort claim: as long as the underlying controversy involves a minor dispute, the state tort claim is preempted. See, *e.g.*, *Andrews* v. *Louisville & Nashville R. Co.*, 406 U.S. 320 (1972); *Choate* v. *Louisville & Nashville R. Co.*, 715 F.2d 369 (7th Cir. 1983); *Beers* v. *Southern Pacific Transp. Co.*, 703 F.2d 425 (9th Cir. 1983); *Magnuson* v. *Burlington Northern, Inc.*, 576 F.2d 1367 (9th Cir.), *cert. denied*, 439 U.S. 930 (1978).

Reasoning from these principles, other courts presented with employer-employee disputes similar to the one in this case have repeatedly held state tort claims predicated on such disputes to be preempted by the RLA. See, *e.g.*, *Landfried* v. *Terminal Railroad Ass'n*, 721 F.2d 254 (8th

Cir. 1983); *Jackson* v. *Consolidated Rail Corp.*, 717 F.2d 1045 (7th Cir. 1983), *cert. denied*, 465 U.S. 1007 (1984); *Koehler* v. *Illinois Central Gulf R. Co.*, 488 N.E.2d 542 (Ill. 1985), *cert. denied*, 106 S. Ct. 3297 (1986). As the Missouri Court of Appeals pointed out, "the great weight of authority" thus supports the conclusion that the petitioner's prima facie tort claim involves a minor dispute within the preemptive scope of the RLA. See Pet. App. A15.

What is important for present purposes is not only that the Missouri Supreme Court's preemption ruling is correct, but also that it represents nothing more than the application of settled legal standards to the particular facts of this case. None of the underlying preemption principles outlined above has been called into question in this litigation; the only question has been how those principles apply to the particular dispute between the petitioner and the respondent.[3] By its nature, the question whether a particular controversy between a railroad and an employee involves a "minor dispute" depends on the particular subject matter of the controversy and the circumstances surrounding it. No purpose would be served for this Court to review whether the Missouri Supreme Court correctly applied settled RLA preemption principles to the specific facts of this case.

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[3] In his opening brief before the Missouri Court of Appeals, the petitioner acknowledged that the issue was not whether minor disputes are within the exclusive jurisdiction of the adjustment boards, but rather whether the specific facts of this case constitute a minor dispute:

> "Plaintiff does not contend that a 'minor dispute' is not within the exclusive jurisdiction of the Railroad Adjustment Board[s]. The essential issue is whether the facts pleaded (and proved) by the plaintiff constitute a 'minor dispute' within the meaning of the Act." Brief of Plaintiff-Respondent at 25, *Brown* v. *Missouri Pacific R. Co.*, No. 50528 (Mo. Ct. App. June 24, 1986).

B. The Railway Labor Act Ruling Is Not In Conflict With Other State And Federal Rulings

There is no substance to the petitioner's claim that the Missouri Supreme Court's decision conflicts with other state and federal FLA preemption decisions. As for the three federal Court of Appeals decisions cited by the petitioner, none centers on the federal question presented here—the preemptive effect of the RLA on a state tort claim. Instead, each case involves the relation between the RLA and the FELA, another federal statute. See *Lancaster* v. *Norfolk & Western Ry. Co.*, 773 F.2d 807 (7th Cir. 1985), *cert. denied*, 55 U.S.L.W. 3661 (March 30, 1987) (No. 85-1702); *Tello* v. *Soo Line R. Co.*, 772 F.2d 458 (8th Cir. 1985); *Buell* v. *Atchison, Topeka and Santa Fe Ry. Co.*, 771 F.2d 1320 (9th Cir. 1985), *aff'd in part and vacated in part*, 55 U.S.L.W. 4362 (March 24, 1987) (No. 85-1140).

The considerations involved in deciding whether one federal statute displaces another, the underlying issue in *Lancaster*, *Tello*, and *Buell*, are fundamentally different from those involved in deciding whether a federal statute preempts state law under the Supremacy Clause, the issue here. See *Buell*, 55 U.S.L.W. at 4363-65 (resolving asserted conflict between FELA and RLA by looking to Congressional purpose underlying the two statutes and declining to interpret RLA as "repealing" FELA "absent an intolerable conflict between the two statutes"); compare *Watt* v. *Alaska*, 451 U.S. 259, 266-67 (1981), and *Morton* v. *Mancari*, 417 U.S. 535, 550-51 (1974), with *Free* v. *Bland*, 369 U.S. 663, 666 (1962). The Missouri Supreme Court addressed each of the Court of Appeals decisions cited by the petitioner and found each to be distinguishable precisely because they involved claims arising out of the FELA rather than state law claims. See 720 S.W.2d at 360 & n.6 (Pet. App. A22 & n.6). The Missouri Supreme Court's decision does not purport to question either the reasoning or the result in those cases.

Neither is there a conflict between the Missouri Supreme Court's RLA ruling here and the Minnesota Supreme Court's decision in *Pikop* v. *Burlington Northern R. Co.*, 390 N.W.2d 743 (Minn. 1986), *cert. denied*, 55 U.S.L.W. 3661 (March 30, 1987) (No. 86-857).[4] The Missouri Supreme Court carefully considered *Pikop* and found it factually distinguishable because the Minnesota Supreme Court's decision turned on allegations of a systematic pattern of extreme personal abuse, while "[h]ere * * * outrageous conduct was neither shown by the evidence nor submitted to the jury, and there was no evidence of physical or mental injury." 720 S.W.2d at 360 (Pet. App. A22). Nothing in the Minnesota Supreme Court's decision in *Pikop* indicates it would reach a different conclusion from that of the Missouri Supreme Court on the facts of this case.[5] The Missouri Supreme Court's comparison of the present facts and the facts of *Pikop* simply underscores that the results in RLA preemption cases turn on the specific facts of each case. Review by this Court of whether the facts of a particu-

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[4] Petitioner also invoked below the California Court of Appeals decision in *DeTomaso* v. *Pan American World Airways, Inc.*, 220 Cal. Rptr. 493 (1985). That decision has been unanimously reversed by the California Supreme Court following the Missouri Supreme Court's decision in this case. See *DeTomaso* v. *Pan American World Airways, Inc.*, 733 P.2d 614 (Cal. 1987).

[5] In *Pikop*, two railroad employees brought claims of intentional infliction of emotional distress based on repeated episodes of personal abuse, including repeated sexual harassment and ethnic slurs. See 390 N.W.2d at 745-46. The Minnesota Supreme Court held that tort claims based on "a continual pattern of harassment," involving conduct " 'so atrocious that it passes the boundaries of decency and is utterly intolerable to the civilized community,' " fell outside the preemptive scope of the RLA's minor-dispute procedures. *Id.* at 750. The Minnesota Supreme Court's decision was squarely predicated on the extreme and abusive conduct alleged by the employees, and the decision carefully refrained from holding that all claims of intentional infliction of emotional distress were beyond the reach of RLA preemption. See *id.* at 753.

lar employee-employer controversy involves a minor dispute is no more warranted in this case than in *Pikop*, where this Court recently denied a petition for certiorari.

C. The Railway Labor Act Ruling Does Not Leave Railroad Employees Without Remedies For Employer Retaliation

Finally, contrary to the petitioner's assertions, the Missouri Supreme Court's RLA preemption ruling does not leave railroad employees without remedies against employers who retaliate for FELA claims. First, the Missouri Supreme Court left open the possibility that preemption might not occur in a case where, unlike this one, a railroad engaged in the kind of extreme and outrageous conduct that has been held to fall outside the scope of state tort preemption under the NLRA and the RLA. 720 S.W.2d at 359-60 (Pet. App. A20-A23); see, *e.g.*, *Farmer*, *supra* (NLRA); *Pikop*, *supra* (RLA). In this case, as the Missouri Supreme Court explained, the petitioner simply offered "no evidence of physical or mental injury" and "[n]o element of personal abuse." *Id.* at 360 (Pet. App. A22-A23). The Court did not hold that preemption would necessarily result if more extreme facts were presented.

Second, even in cases like this one where the railroad's alleged misconduct cannot be pursued through a state tort action, the RLA creates an alternate scheme of administrative remedies. Under § 3 of the RLA, any conduct by a railroad that violates its express or implied contractual obligations to its employees can be presented to an adjustment board for relief. See 45 U.S.C. § 153 First (i), 153 Second. In turn, virtually every collective bargaining agreement prohibits the employer, either expressly or implicitly, from discharging or otherwise punishing an employee without "just cause." See, *e.g.*, W. Holloway & M. Leech, *Employment Termination: Rights and Remedies* 114-15 (1985); F. Elkouri & E.

Elkouri, *How Arbitration Works* 651-53 (4th ed. 1985). The filing of an FELA claim or the recovery of an FELA award could not conceivably be construed as "just cause" for discharge or discipline. As a result, a railroad that retaliates against an employee for seeking relief under the FELA thereby breaches its obligations under the collective bargaining agreement and can be called to account in an arbitration proceeding before an RLA adjustment board, which can award any relief expressly or implicitly authorized by the collective bargaining agreement or industry "custom or practice." See, *e.g.*, *Brotherhood of Railroad Trainmen* v. *Central of Georgia Ry. Co.*, 415 F.2d 403, 415-16 (5th Cir. 1969) (approving adjustment board award of noncompensatory penalties based on custom and practice), *cert. denied*, 396 U.S. 1008 (1970). Nothing in the Missouri Supreme Court's RLA preemption ruling bars an employee from obtaining relief for such misconduct from an adjustment board; to the contrary, the decision expressly recognizes contract-based remedies as a potential avenue of relief.[6] There is thus no risk that the Missouri Supreme Court's ruling will leave railroad employees defenseless against employer retaliation.

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[6] In his opinion for the Missouri Supreme Court, Judge Blackmar noted that "[i]f existing remedies are inadequate, the bargaining agent may negotiate for corrective contract provisions." 270 S.W.2d at 361 (Pet. App. A24). It also should be noted that regardless of employees' express and implied contractual rights, a railroad that engages in a practice of threatening employees to prevent them from seeking legal assistance for FELA claims can be enjoined in state or federal court under the FELA itself. See *Sheet Metal Workers International* v. *Burlington Northern R. Co.*, 736 F.2d 1250 (8th Cir. 1984).

CONCLUSION

The petition for writ of certiorari should be denied.

Respectfully submitted,

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APPENDIX

APPENDIX

STATEMENT REQUIRED BY RULE 28.1

Petitioner Missouri Pacific Railroad Company is a wholly owned subsidiary of the Union Pacific Corporation, a publicly traded holding company. Missouri Pacific Railroad Company's subsidiaries and affiliates are as follows:

Alameda Belt Line
Alton & Southern Railway Company
American Refrigerator Transit Company
Arkansas & Memphis Railway Bridge and Terminal Company
Belt Railway of Chicago
Bitter Creek Coal Company
Brownsville & Matamoros Bridge Company
CMT Ltd.
Calnev Pipe Line Company
Camas Prairie Railroad Company
Central California Traction Company
Champlin Alaska Pipeline, Inc.
Champlin Arguello Pipeline, Inc.
Champlin Canada, Ltd.
Champlin Gas Gathering, Inc.
Champlin Gas Pipeline, Inc.
Champlin Gas Processing Company
Champlin International Petroleum Company
Champlin Liquid Pipeline, Inc.
Champlin Marketing, Inc.
Champlin Midcontinent Crude Oil Pipeline, Inc.
Champlin Midcontinent Marketing, Inc.
Champlin Midcontinent Products Pipeline
Champlin Petrochemicals, Inc.
Champlin Petroleum Company
Champlin Pipeline, Inc.
Champlin Refining, Inc.
Champlin Trading Company

Chicago & Western Railroad Company
Chicago Heights Terminal Transfer
Railroad Company
Delta Finance Company, Ltd.
Denver Union Terminal Railway
Des Chutes Railroad Company
Doniphan, Kensett & Searcy Railroad
Elk Mountain Coal Company
Esperanza Pipeline Company
Galveston, Houston and Henderson
Railway Company
Great Southwest Railroad, Inc.
Hanna Basin Coal Company
Harbor Service Stations, Inc.
Houston Belt & Terminal Railway Company
Jefferson Southwestern Railroad Company
Kanda Development Company
Kansas City Terminal Railway Company
Longview Switching Company
Los Angeles & Salt Lake Railroad Company
MKT Exploration Company
MP Equipment Corporation
MP Redevelopment Corporation
Missouri Improvement Company
Missouri Pacific Air Freight, Inc.
Missouri Pacific Corporation
Missouri Pacific Intermodal Transport, Inc.
Missouri Pacific Truck Lines, Inc.
Mount Hood Railway Company
Nueces Pipeline, Inc.
Oakland Terminal Railway
Ogden Union Railway & Depot Company
Oregon Short Line Railroad Company
Oregon-Washington Railroad
& Navigation Company
Overthrust Pipe Line, Inc.
Pacific Subsidiary, Inc.

Pacific Rail System, Inc.
Panola Pipe Line, Inc.
Park Spring, Inc.
Penn Central Corporation
Portland Terminal Railroad Company
Portland Traction Company
Prospect Point Coal Company
Pueblo Union Depot and Railroad Company
Quality Aggregate Company
R M Leasing Company
Rock Springs Royalty Company
Rocky Mountain Energy Company
Sacramento Northern Railway
Southern Illinois and Missouri Bridge Company
Spokane International Railroad Company
St. Joseph & Grand Island Railway Company
St. Joseph Terminal Railroad Company
Standard Realty and Development Company
Stauffer Chemical Company of Wyoming
Stonegate Park, Inc.
Terminal Industrial Land Company
Terminal Railroad Association of St. Louis
Texas & Missouri Pacific Railroad Company
Texas City Terminal Railway Company
Tidewater Southern Railway Company
Trailer Train Company
UP Leasing Corporation
UP Sub, Inc.
Union Pacific Finance N.V.
Union Pacific Foundation
Union Pacific Freight Services Company
Union Pacific Fruit Express Company
Union Pacific Land Resources Corporation
Union Pacific Motor Freight Company
Union Pacific Railroad Company
Union Pacific Resources Corporation
Union Pacific Resources, Ltd.
Unita Development Company

Upland Industries Corporation
Upland Industrial Development Company
Wamsutter Pipeline, Inc.
Wasatch Insurance Limited
Weatherford Mineral Wells and Northwestern Railway Company
Western Pacific Railroad Company
Winton Coal Company
WPX Freight System, Inc.
Yakima Valley Transportation Company